

REMARKS/ARGUMENTS

This response is filed in response to the office action of August 4, 2009. Claims 2-28 remain canceled. Claims 1 and 29-37 have been amended. Claims 1, 29-37 are currently pending.

Double Patenting Rejection

Claims 1 and 29-37 were rejected under 35 U.S.C. §101 for double patenting reasons over claims 29-33 and 39-50 of co-pending application 11/042,823. Applicant notes that application 11/042,823 has been abandoned, and thus submit that the rejection is therefore moot.

Rejections under 35 U.S.C. §102 and 35 U.S.C. §103

Claims 1, 29 and 31-36 were rejected under 35 U.S.C. §102(b) as anticipated by Nields. Claim 30 was rejected under 35 U.S.C. §103(a) as unpatentable over Nields.

Applicants have amended the independent claims to recite the limitation of "an ultrasound system for acquiring a pre-scan_ultrasound image of the breast for optimizing exposure parameters of the x-ray source..." Such limitation is clearly described in Applicant's specification at pages 19-20 and therefore no new matter is added by way of this amendment. No such teaching or suggestion of such optimization of x-ray parameters using the ultrasound image is found in Nields or any other cited or known art. Accordingly it is submitted that the rejections of the claims have been overcome, and it is requested that this application be allowed to continue to issuance.

Conclusion

In light of the above Remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case. If the Office should have any questions or other issues to discuss, please do not hesitate to contact the undersigned attorney.

It is believed that a two month extension of time is required for consideration of this preliminary amendment and RCE. The Examiner is hereby authorized to charge the Deposit Account No. 50-2855 for any actual deficiency. The Examiner is also authorized to credit any overpayment to Deposit Account No. 50-2855.

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Respectfully submitted,

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